

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:12 cr 41**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
NELSON RODRIGUEZ,)	
)	
Defendant.	“	
_____)	

THIS MATTER came before the undersigned pursuant a motion entitled “Motion to Reconsider Detention Order & Request for Expedited Hearing” (#19) filed by counsel for defendant. On May 30, 2012, the undersigned conducted a detention hearing concerning the issue of the pretrial detention of defendant. The undersigned entered an oral order (#6) detaining the defendant on that date and later entered an addendum (#10) to the detention order setting forth in writing the Court’s findings regarding the reasons for the detention of defendant. Defendant did not appeal the order of detention and the time to do so has expired. The undersigned has examined the Motion to Reconsider and cannot find any citation to a statute that would allow this Court to reconsider the previously entered detention order other than a provision as set forth in 18 U.S.C. § 3142(f)(2) which states as follows:

The hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the

hearing and that has a material bearing on the issue of whether there are conditions of release that would reasonably assure the appearance of such person as required and the safety of any other person and the community.

An examination of the motion (#19) does not show any new information that was not known at the time of the detention hearing.

A further examination of the motion does not show there has been compliance with the Local Rules of Criminal Procedure. LCrR47.1(B) states as follows:

(B) Certificate Of Conference With Filing. Pretrial motions, other than motions to suppress, *ex parte* motions, and notices (notice of substitution of counsel, notice of appearance, notice of intent to present certain types of evidence, etc.) shall include a certification that the moving party has conferred with opposing counsel and state opposing counsel's position on the relief sought, or an explanation as to why conferring should not be required under the circumstances. If a hearing on a motion is requested, counsel should estimate the length of such hearing.

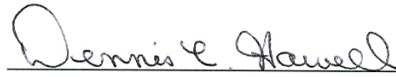
The motion of defendant does not reflect any consultation with the Government and there is not estimate of the length of the hearing. Based upon the Local Rule and the motion of defendant, the Court enters the following **ORDER**:

1) The defendant shall by, **Friday August 3, 2012**, file an amendment to defendant's motion setting forth a statutory reference for defendant's motion. Such amendment shall comply with LCrR 47.1(B);

2) The Government shall by, **Friday August 10, 2012**, respond to defendant's motion and particularly shall address the issue of whether or not there is

any statute or rule which allows the Court to reconsider the previously issued Order of Detention entered in this matter.

Signed: July 31, 2012



Dennis L. Howell
United States Magistrate Judge

